

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ICON GROUPE, LLC,

No. 3:12-cv-01114-AC

Plaintiff,

OPINION AND ORDER

v.

**WASHINGTON COUNTY and
ANDREW SINGELAKIS,**

Defendants.

MOSMAN, J.,

On May 20, 2013, Magistrate Judge Acosta issued his Findings and Recommendation (“F&R”) [31] in the above-captioned case recommending that defendants’ motion to dismiss [13] be granted in part and denied in part. Judge Acosta recommended that defendants’ motion to dismiss plaintiff’s First Claim for Relief be granted, and that plaintiff be given leave to amend the complaint to add factual allegations identifying similarly situated entities that were treated differently by defendants. Judge Acosta recommended that defendants’ motion to dismiss plaintiff’s Second Claim for Relief be granted, and that the claim be dismissed with prejudice. Judge Acosta recommended that defendants’ motion to dismiss plaintiff’s Third Claim for Relief be denied. Finally, Judge Acosta recommended that defendants’ alternative motion for abstention and a resulting stay be denied. No objections were filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Acosta's recommendation, and I ADOPT the F&R [31] as my own opinion. I find that Icon's allegations of a restriction on noncommercial and commercial speech sufficiently state a claim for violation of the First Amendment under *Reed v. Town of Gilbert*, 707 F.3d 1057 (9th Cir. 2013) and *Central Hudson Gas & Electric Corp. v. Public Service Comm'n of New York*, 447 U.S. 557 (1980), respectively.

IT IS SO ORDERED.

DATED this 7th day of June, 2013.

/s/ Michael W. Mosman
 MICHAEL W. MOSMAN
 United States District Judge